

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRICE H. ALLEN,	)	
	)	
Petitioner,	)	Civil Action No. 2: 15-cv-0317
	)	
v.	)	United States District Judge
	)	Nora Barry Fischer
	)	
JAMES ECKARD, Superintendent, and	)	
JOHN W. PECK, District Attorney of	)	
Westmoreland County,	)	
	)	
Respondents.	)	

**MEMORANDUM OPINION**

Brice H. Allen, (“Allen” or “Petitioner”), proceeding *pro se*, has filed a Petition for Writ of Habeas Corpus by a Person in State Custody (the “Petition”) pursuant to [28 U.S.C. § 2254](#), challenging his 2008 conviction for first degree murder. The case was referred to United States Magistrate Judge Cynthia Reed Eddy for a report and recommendation in accordance with the Magistrate Judges Act, [28 U.S.C. § 636\(b\)\(1\)](#), and the Local Rules of Court for Magistrate Judges.

The Report and Recommendation (“R&R”) filed on October 19, 2017, recommended that the Petition be dismissed and that a certificate of appealability be denied. [[ECF No. 15](#)]. The parties were informed that Petitioner’s written objections to the R&R were due by November 7, 2017, and that Respondents’ written objections were due by November 3, 2017. On November 9, 2017, Petitioner filed a motion for extension of time to file objections, which the Court granted and extended the time to file objections to November 27, 2017. [[ECF No. 17](#)]. On November 13, 2017, Petitioner filed an unsigned “Response to the Magistrate Judge’s Report and Recommendation” in which he raised an objection to the Magistrate Judge’s

recommendation that the “accumulated trial errors” claim be denied. In the Response, Petitioner also requested an additional thirty (30) days in which to file a brief in support of his objections. Petitioner’s request for additional time to file a brief was granted and Petitioner was given an extension until December 14, 2017, to file remaining objections / brief in support of his objections. [[ECF No. 20](#)]. To date, Petitioner has not filed any supplemental objection(s) or brief. Respondents filed a “Response to Petitioner’s Objections to the Magistrate Judge’s Report and Recommendation.” [[ECF No. 22](#)]. The matter is ripe for review.

Where, as here, objections have been filed, the court is required to make a *de novo* determination about those portions of the R&R to which objections were made. See [28 U.S.C. § 636\(b\)\(1\)](#); [Fed.R.Civ.P. 72\(b\)](#). The district court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions.

After reviewing *de novo* the record in this case, and the pleadings and documents filed in this case, together with the R&R, Petitioner’s objections, and Respondents’ response, the Court is in agreement with the recommendation of the R&R and finds that Petitioner’s objections do no undermine the recommendation of the Magistrate Judge. The Petition will be denied and an appropriate order will be entered.

DATED: January 9, 2018

BY THE COURT:

*s/ Nora Barry Fischer*  
Nora Barry Fischer  
United States District Judge

cc: BRICE H. ALLEN  
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James T. Lazar  
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